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Preparatory Commission for the International Criminal Court

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Working Group on a Draft Budget for the First Financial Year of the Court
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Revised draft budget for the first financial period of the Court

Text of Part One proposed by the Coordinator*

* The present text has been discussed and provisionally adopted by the Working Group. It may be modified subject to changes to Part Two at the tenth session of the Preparatory Commission for International Criminal Court.

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Introduction

1. At its eighth session, the Preparatory Commission for the International Criminal Court requested the Secretariat to prepare a revised draft budget for the first financial year of the Court, taking into account the priority guidelines proposed by the Coordinator (PCNICC/2001/L.3/Rev.1/Add.1, appendix) for consideration by the Commission at its ninth session. The present document is submitted pursuant to that request. In accordance with regulation 2 of the draft Financial Regulations (PCNICC/2001/L.4/Add.2), the financial period shall consist initially of one calendar year unless otherwise decided by the Assembly of States Parties for the first-year budget of the Court. It is proposed that the first financial period should last from the first meeting of the Assembly of States Parties to the end of the subsequent calendar year. Based on the assumption expressed in the last preambular paragraph of General Assembly resolution 56/85 of 12 December 2001 that the first meeting of the Assembly will be held by September 2002, the first financial period would thus stretch from September 2002 to the end of December 2003, namely 16 months. The proposed estimates of the requirements for the first financial period of the International Criminal Court (ICC or "the Court") relate to the costs of operation of the ICC and costs related to the sessions of the Assembly of States Parties, the meetings of the Bureau of the Assembly and the Committee on Budget and Finance.

2. The magnitude of the resource requirements of the Court in the first financial period of its operation would depend upon the level and scope of activities of the Court, bearing in mind the need to provide a stronger capacity for the Court and the Assembly of States Parties to respond to various challenges. The proposed resource requirements are responsive to the necessity to create, among other things, the ability for the Court — financially, administratively and procedurally — to recruit the required staff at short notice.

3. The proposed structure of the organs of the Court, together with the corresponding administrative arrangements, is discussed in Part One of the present document. These take into account the composition and experience of the most relevant existing international judicial institutions, such as the International Court of Justice (ICJ), the International Tribunal for the Former Yugoslavia (ICTY), the International Tribunal for Rwanda (ICTR) and the International Tribunal for the Law of the Sea (ITLOS). It is anticipated that the overall staffing resource requirements of the Court would consist of 195 posts in 2003 and 64 posts in the period from September to December 2002 (see Part Two, tables 3 and 4). Organizational charts containing details of the proposed staffing structure in 2003 are shown in annex I to the present document.

4. The cost estimates are outlined in Part Two. They were calculated on the basis of a number of assumptions, the proposed structure and administrative arrangements for the Court, and experience with similar institutions, such as ICTY. In accordance with regulation 3.2 of the draft Financial Regulations, which, inter alia, provides that the proposed programme budget shall be presented in the currency of the statutory headquarters of the Court, the present draft budget has been set out in euros. The United Nations operational rate of exchange as of March 2002 (US$ 1.00 = €1.16, or €1 = $0.862069) was used.

5. Since the first financial period would cover 16 months and it may be particularly difficult to accurately foresee the Court's needs during this initial

period, reference is made to regulations 4.2 and 4.3 concerning the appropriation line as well as regulation 3.6 relating to the supplementary budget, of the draft Financial Regulations. Should circumstances unforeseen at the time of adoption of the budget make it necessary, the appropriation line adopted by the States Parties may be utilized or supplementary budget proposals may be submitted by the Registrar with respect to the first financial period. Accordingly, a reserve for unforeseen expenses has been included in the present draft budget.

6. Pursuant to General Assembly resolution 56/85, the first meeting of the Assembly of States Parties will be held at United Nations Headquarters in New York. The venues of the subsequent meetings of the Assembly of States Parties, the Bureau and the Committee on Budget and Finance in 2003 are unknown. Therefore, two sets of estimates have been prepared for those meetings: one based on the assumption that they would be held at The Hague and the other on the assumption that they would be held in New York. The exact dates and duration of the meetings are also unknown. Accordingly, the proposed dates and duration for the Assembly of States Parties (two-week resumed first meeting in January 2003, one-week resumed meeting/special session in April 2003 and two-week second meeting in September 2003), the Bureau of the Assembly (two sessions of three days' duration each in March and June 2003) and the Committee on Budget and Finance (one five-day session in August 2003) have been taken for illustration purposes only and without prejudice to future decisions thereon.

7. The Inaugural Meeting of the Court will be held at The Hague. The Government of the Netherlands has expressed its commitment to fully finance the Inaugural Meeting. The date of the Inaugural Meeting is not yet known. Subject to the understanding referred to in the preceding paragraph, it is assumed that it would be held in February 2003, shortly after the resumed first meeting of the Assembly in January 2003. Requirements for the Inaugural Meeting of the Court were not included in the present draft budget.

8. At this point, a number of issues with financial implications remain to be clarified. One such issue is that concerning the premises, furniture and information technology equipment of the Court. In his statement at the eighth session of the Preparatory Commission, the Minister for Foreign Affairs of the Netherlands announced that the Government of the Netherlands had identified a building which, with a total area of 12,000 square metres, was sufficiently spacious and flexible to serve as the temporary premises of the Court from the first day of its existence.[1] The construction and renovation/alteration costs (e.g., interior layout and design), including for the courtroom, will be financed by the Netherlands Government in accordance with the Netherlands bid-book on which the Rome Conference based its decision on the ICC headquarters. The Foreign Minister also indicated that the Government would provide furniture and equipment for up to 100 officials and staff members and that special attention would be given to security measures.[2] From follow-up discussions with representatives of the host Government, it was determined that this offer encompasses computers and information technology,

[1] The Head of the Netherlands delegation indicated at the outset of the ninth session of the Preparatory Commission that the host country was also exploring alternative options that might better match the requirements of the International Criminal Court. The results from that endeavour will be taken into account at the tenth session of the Preparatory Commission.

[2] See PCNICC/2001/INF/3, p. 3.

including the necessary data security arrangements, as appropriate. The host Government is conducting further assessment studies on that basis and will provide the Preparatory Commission with more detailed information about this offer at the earliest possible date on the basis of a full-cost-estimate by the Secretariat.[3]

9. As the present draft budget was, to the extent possible, prepared on a full-cost basis, the estimates regarding rental of premises and information technology equipment will probably have to be adjusted at a later stage in order to bring them into conformity with the details of the Netherlands offer. Based on the number of judges and the proposed number and level of posts, it is estimated that the Court would require a minimum of 8,600 square metres of space to accommodate offices for the Presidency, Divisions/Chambers, the Office of the Prosecutor and the Registry, the Common Services Division, courtrooms, detention facilities and ancillary areas. Furthermore, the Foreign Minister confirmed the host Government's willingness "to contribute financially to the initial meetings of the Assembly of States Parties and its Bureau", as well as to "fully finance the meeting for the Inaugural Meeting of the Court".[4]

10. Post requirements are presented in net terms, given that a decision has been taken by the Preparatory Commission against the adoption of a system of staff assessment and tax equalization. Furthermore, the requirements were computed on the basis of the post structure, salaries, allowances and entitlements applicable to the United Nations common system. Should the States Parties to the International Criminal Court adopt different standards, adjustments will have to be made to the budget. It should also be noted that there are certain items that were not included at this stage, but may have to be considered in the future. Annex VI to the present document contains a list of some of those outstanding items, which may have been included in the budget for the first financial period, once the relevant decisions have been made, or in subsequent budgets.

11. The estimates provided in the present draft budget are based on cost parameters for the years 2002 and 2003. The level of resource requirements for the fist financial year of the Court will depend on whether the resumed first meeting of the Assembly of States Parties, the second meeting of the Assembly, the special session of the Assembly, the meetings of the Bureau of the Assembly and the meetings of the Budget and Finance Committee are held at The Hague or in New York. If they are held at The Hague, the total resource requirements are estimated at €39,891,300, of which €30,764,200 would relate to the cost of operations of the Court, and €9,127,100 to the cost of the aforementioned meetings plus the first meeting of the Assembly of States Parties to be held in New York in 2002. If all the meetings are held in New York, the total estimated requirements for the first financial period would be €39,696,900. Further details concerning total requirements can be found in paragraphs 107 and 108 as well as tables 1 and 2 in Part Two of the present document.

[3] The host country and the Secretariat will discuss these issues in an endeavour to arrive at a common approach on the matter as soon as possible after the ninth session of the Preparatory Commission.

[4] See PCNICC/2001/INF/3, p. 3.

Part One
Proposed structure and administrative arrangements

I. Seat of the Court

12. The seat of the Court is to be established at The Hague in the Netherlands (Statute, art. 3, para. 1). The host State has secured a location for the permanent premises of the Court.[5] Pending the construction of the premises, the Government of the Netherlands has announced that it will make available temporary premises as from the date of establishment of the Court. The premises are an existing building that offers enough room to meet start-up needs as well as expansion of the Court's activities within its walls. Detention facilities will be made available at a different location.

II. Premises requirements

13. During the initial phase of the Court, the temporary premises should accommodate the following needs of the Court:

(a) The Presidency, consisting of the President and the First and Second Vice-Presidents (art. 38, para. 3), as well as its staff;

(b) Office space for an Appeals Division, a Trial Division and a Pre-Trial Division (art. 39, para. 1), i.e., an additional 15 judges and their staff;

(c) A courtroom that is available for the Appeals Chamber, the Trial Chambers and the Pre-Trial Chamber;

(d) The Office of the Prosecutor;

(e) The Registry;

(f) A detention facility at a separate location.

14. The experience of the International Tribunal for the Former Yugoslavia has shown that due account should be taken of the need to ensure the separation of the facilities belonging to the Office of the Prosecutor from the rest of the Court.[6] The particular requirements of the Court, however, will have to be taken into account. The temporary premises provided by the Government of the Netherlands would, if so required, allow for the facilities of the Office of the Prosecutor to be separated from the rest of the Court's offices within the premises to be made available.

15. Apart from the premises to accommodate the needs referred to in paragraph 13 above, appropriate premises will be required for the first meetings of the Assembly of States Parties (Statute, art. 112), the Bureau (art. 112, para. 3 (a)), the Inaugural

[5] In his statement made at the eighth session, the Foreign Minister of the Netherlands announced that the permanent seat of the Court's headquarters would comprise some 30,000 square metres of office space, courtrooms, service areas, areas for the public and detention facilities. Construction of the premises is expected to be finished by 2007.

[6] See report of the Expert Group, A/54/634, para. 250.

Meeting of the Court, any special sessions of the Assembly (art. 112, para. 6), and meetings of the Committee on Budget and Finance.

III. Assembly of States Parties

16. According to the Statute, the Assembly can meet either at the seat of the Court or at the Headquarters of the United Nations (art. 112, para. 6). The first meeting of the Assembly, pursuant to General Assembly resolution 56/85, will be held at United Nations Headquarters in New York. The Government of the Netherlands **indicated during the eighth session of the Preparatory Commission that it felt a special but by no means exclusive responsibility for the effective functioning of the Court. At that session the Government of the Netherlands also** expressed its willingness to contribute financially to the initial meetings of the Assembly, **on the basis of an agreed budget, once the political parameters have been assessed.**[7]

17. The first meeting of the Assembly will be attended by representatives of at least 60 States Parties, who may be accompanied by alternates and advisers (art. 112, para. 1). The maximum size of the delegations of the States Parties is not regulated by the Statute. In view of the importance of the first meeting, it could be assumed that delegations will be composed of no less than three persons.[8]

18. In addition, States that have signed the Statute or the Final Act may attend the sessions of the Assembly in the capacity of observers (Statute, art. 112, para. 1). One hundred thirty-nine States have signed the Statute and 144 States have signed the Final Act. The composition and size of the observer delegations is not regulated by the Statute. However, by paragraph 12 of resolution 56/85, the General Assembly requested the Secretary-General to invite as observers to the meeting of the Assembly of States Parties representatives of intergovernmental organizations and other entities that have received a standing invitation from the General Assembly, representatives of interested regional intergovernmental organizations and other international bodies invited to the Rome Conference or accredited to the Preparatory Commission. By paragraph 13 of resolution 56/85, the Assembly noted that non-governmental organizations invited to the Rome Conference, registered to the Preparatory Commission or having consultative status with the Economic and Social Council whose activities are relevant to the activities of the Court may also participate in the work of the Assembly of States Parties in accordance with agreed rules.

19. The official and working languages of the Assembly are those of the General Assembly of the United Nations (Statute, art. 112, para. 10). According to the Statute, the Assembly shall meet once a year and, when circumstances so require, hold special sessions (art. 112, para. 6).

20. Pursuant to rule 37 of the draft Rules of the Assembly of States Parties (PCNICC/2001/L.4/Add.4), it is envisaged that a secretariat would be responsible for receiving, translating, reproducing, distributing and keeping custody of documents and decisions of the Assembly, the Bureau and any subsidiary bodies that may be established by the Assembly, as well as providing interpretation. Thus, the

[7] See PCNICC/2001/INF/3, p. 3.

[8] In the General Assembly hall at United Nations Headquarters, each delegation is entitled to six seats.

secretariat will be involved in the substantive servicing of meetings and preparing pre-session, in-session and post-session documentation.

21. Issues relating to the nature, scope and functions of the secretariat are being addressed by the Preparatory Commission. With respect to the first meeting of the Assembly of States Parties, the General Assembly, in its resolution 56/85, requested the Secretary-General to undertake the preparations necessary to convene it. Thus, the Secretariat of the United Nations will provide substantive servicing of the first meeting of the Assembly of States Parties. According to the note of the Secretariat concerning the responsibilities entrusted to the Secretary-General under resolution 56/85, the overall cost requirements based on two meetings per day were estimated at €3,083,400 ($2,658,100), and based on four meetings per day, €3,245,200 ($2,797,600).[9]

21bis **The Preparatory Commission noted that the estimate for servicing the Assembly of States Parties and its subsidiary bodies were based on the assumption that the United Nations would provide these services and would be reimbursed accordingly. The reimbursement would include a "programme support" (overhead) fee of thirteen per cent of the cost. The Preparatory Commission recommends to the Assembly that it direct the Common Services Division to seek alternative sources of conference servicing with the aim of conducting a comparative assessment of those sources.**

22. Three additional meetings of the Assembly of States Parties are contemplated in 2003: a resumed first meeting of two weeks' duration in January 2003, a resumed/special session of one week's duration in April and the second meeting of two weeks' duration in September 2003. The estimated cost of these meetings would be €5,687,500 if held in New York, or €5,881,900 if held at The Hague. These estimates do not include the cost of the first meeting of the Assembly of States Parties referred to above.

IV. Bureau of the Assembly

23. According to the Statute, the Bureau of the Assembly shall meet as often as necessary, but at least once a year (art. 112, para. 3 (c)). In 2002, the Bureau is expected to **hold its first meeting**, also at United Nations Headquarters in New York.

24. The Bureau will be composed of 21 members elected by the Assembly (art. 112, para. 3 (a)). It is expected that there will be two meetings of the Bureau in 2003, one three-day session in March and another three-day session in June to discuss organizational matters. The Bureau meetings would require relevant premises arrangements and, if held away from the seat of the Court, would also entail travel and related expenses for the judges, the Prosecutor and the Registrar. **In accordance with Rule 38, in connection with Rule 2, of the draft Rules of Procedure of the Assembly of States Parties, Arabic, Chinese, English, French, Russian and Spanish are** the official and working languages of the Bureau. The representative character of the Bureau (ibid., para. 3 (b)) as well as its composition need to be taken into account when assessing resources needed.

[9] A/C.6/56/L.25, para.10.

25. The Government of the Netherlands, as the host country, has indicated at the ninth session of the Preparatory Commission that it committed itself to contribute financially to the initial meetings of the Bureau, in the first financial period to the amount of up to Euros 300,000 as a non-deductible contribution to the United Nations Trust Fund to Support the Establishment of the International Criminal Court.

V. Inaugural Meeting of the Court

26. Once elected, the 18 judges and the Prosecutor are required to make a solemn undertaking (Statute, art. 45). The Inaugural Meeting of the Court is expected to be held early in 2003. The meeting at which this takes place may be used for the election of the Presidency of the Court by the judges, who might also at the same meeting determine the membership of the Divisions and the Chambers. Thus, appropriate premises arrangements should be envisaged for the Inaugural Meeting of the Court.

27. The Inaugural Meeting will be held at The Hague. The Government of the Netherlands has expressed its commitment to fully finance the meeting.[10] [open, pending language from the host country]

28. The Inaugural Meeting will entail round-trip travel arrangements for the 18 judges and the Prosecutor.

VI. Committee on Budget and Finance

29. The establishment by the Assembly of States Parties of a Committee on Budget and Finance, bearing in mind article 112, paragraphs 2 (b) and (d) and 4, of the Statute has been contemplated in the work of the Preparatory Commission.[11] The Committee will be composed of 12 members. It is envisaged that the Committee would meet in August 2003 for a five-day session to deal with a draft budget for the second financial period of the Court.

30. It is estimated that €502,500 will be required if the Committee meets in New York and €545,700 if its meeting is held at The Hague.

VII. Critical needs of the Court during the first financial period

31. The establishment of all necessary Court functions will consume a substantial amount of time and resources. Certain functions will have to be set up by organs of the Court and will therefore have to await the election of the judges, the Prosecutor and the Registrar, respectively. However, certain critical capacities will need to be established immediately in order to satisfy the requirements of the Statute and meet practical needs in the initial phase. These include the capacity to collect, preserve and acknowledge receipt of incoming information and potential evidence. Moreover, they should include an adequate capacity to ensure high-level external relations, communications and public information. Among immediate practical needs are the

[10] Ibid.

[11] PCNICC/2001/L.4/Add.2.

establishment of operational information and communication networks as well as the setting up of other basic systems necessary for security purposes, a smooth recruitment and procurement process and similar urgent requirements.

32. In addition to satisfying such immediate needs, the budget for the first financial period must provide for sufficient resources for the Court to sequentially build up the necessary capacities. In the following, the above needs will be assessed in relation to each organ of the Court.

33. Some needs are common to more than one organ of the Court. To the extent that the independent role of those organs is not affected, certain basic administrative functions can be carried out by a Common Services Division (see sect. XII below). In this connection, careful attention is devoted to identifying which specific administrative functions could be carried out by such a division so as to maximize the cost-effectiveness of the Court, without prejudice, in particular, to the independent role of the Office of the Prosecutor.

VIII. The Presidency

34. The three judges composing the Presidency, i.e. the President and the First and Second Vice-Presidents, shall serve on a full-time basis as soon as they are elected (art. 35, para. 2) at the Inaugural Meeting. According to the Statute, their salaries, allowances and expenses may be decided upon by the Assembly, and these salaries and allowances cannot be reduced during their term of office (art. 49).

35. In respect of requirements relating to the ICC judges, the terms and conditions of service of the members of ICJ, ICTY and ICTR could be considered. The conditions of service and compensation of members of ICJ, ICTY and ICTR are discussed in detail in the report of the Secretary-General on the matter (A/C.5/56/14). For reference purposes, the gist of the conditions of service and compensation of members of ICJ, the judges of ICTY and ICTR as well as of ITLOS are set out in annex IV to the present document.

36. The Presidency is entrusted in the Statute (art. 38, para. 3 (a)) with the "proper administration of the Court, with the exception of the Office of the Prosecutor". In the first financial period, the critical functions for the Presidency (besides the judicial functions referred to in the Statute and the finalized draft Rules of Procedure and Evidence) would be: (a) high-level external relations and communications (to include media/outreach functions), in conjunction with the Registrar, and (b) establishing systems for the functioning of the Chambers, including pre-trial, trial and appeals capacity. Such systems are crucial, as the manner in which the first applications under the relevant provisions of the Statute are handled will both establish procedures for the future and affect the credibility of the Court.[12]

[12] In the light of the experience of ICTY and ICTR, all decisions would most likely be subject to appeal. Accordingly, if a Pre-trial Chamber is functioning, the Appeals Chamber would also need to be ready to function in order to deal with any appeals that would arise. In addition, since under the finalized draft Rules of Procedure and Evidence victims may apply directly to the Chambers, this situation might arise even before a referral from the Prosecutor.

37. For the purposes of the first financial period, the functions described both in points (a) and (b) in the preceding paragraph will be performed largely by the Presidency, with the Registrar, when elected, providing daily direction (see prior para. 36).

Staffing requirements

38. The role of staff of the Presidency will be to support the President and the two Vice-Presidents in the conduct of external as well as internal relations and communications of the Court. Activities in the first year of operation will include: (a) providing advice on and initiating relationships with States and international organizations; (b) drafting speeches, presentations and papers to assist in "putting the ICC on the world map"; (c) internal and external strategic decision-making as to issues of primary concern to the ICC; and (d) planning and implementation of such internal and external strategies. It is to be expected that in the first financial period of operation a large amount of standard-setting decisions — operational, administrative, managerial and legal — will have to be made by the Presidency. Adequate staff levels will be required to create the capacity to do so. In addition, there will have to be adequate capacity to deal with ad hoc situations requiring almost immediate action. The minimum structure which will need to be in place would include: (a) Chef de Cabinet (P-5), providing direct support to the President; (b) one Legal Officer (P-3), providing support to the two Vice-Presidents;[13] and (c) one spokesperson (P-4). It is assumed that the Spokesperson for the Presidency would also act as head of the Public Information and Documentation Section to be set up as part of the Registry.[14] A further three General Service positions should be provided for the Office of the Presidency, one of them at the Principal level, to provide support to the President. The organizational structure of the Presidency is set out in annex I.A.

IX. Judges other than those comprising the Presidency

39. While according to article 35 of the Statute judges comprising the Presidency shall serve on a full-time basis as soon as they are elected, it is to be decided by the Presidency, on the basis of the workload of the Court and in consultation with its members, to what extent the remaining judges shall be required to serve on a full-time basis. In addition to the Presidency, it will be necessary in the course of the first financial period to have the budgetary capacity to require a sufficient number of judges to serve at the Court. This will notably be for the purpose of conducting pre-trial procedures (three judges or a single judge), as dictated by the relevant rules of procedure and evidence, and for dealing with interlocutory appeals.[15] Accordingly, it would be necessary in the first budget to provide, on an as-needed basis, for

[13] It is envisaged that this Legal Officer could also be assigned, if necessary, to tasks in the Chambers Legal Support Section.

[14] The combining of these two functions may have to be revisited as the workload of the Court increases. See annexes I and III, respectively.

[15] Art. 39 (b) (ii).

judges beyond the three which are part of the Presidency. It is proposed that six additional judges should be included in the budget.[16]

40. The salaries, allowances and expenses of those judges are to be decided upon by the Assembly of States Parties in accordance with article 49 of the Statute. The conditions of service and compensation set out in annex IV could be consulted for reference purposes.

41. For the staff requirements necessary to assist judges other than those comprising the Presidency, attention is drawn to paragraph 75 below.

X. Office of the Prosecutor

42. The Office of the Prosecutor will act independently as a separate organ of the Court (Statute, art. 42, para. 1).

43. It is assumed that the Prosecutor will be elected at a resumed first meeting of the Assembly in early 2003.

44. The Prosecutor can be assisted by one or more Deputy Prosecutors (Statute, art. 42, para. 2). The Deputy Prosecutors shall also be elected by the Assembly, but from a list of candidates provided by the Prosecutor. For each position of a Deputy Prosecutor to be filled, the Prosecutor would have to nominate three candidates (art. 42, para. 4). In view of these requirements, it is unlikely that the first Deputy Prosecutor would be elected during the resumed first meeting of the Assembly (unless consensus regarding the suitable candidates is reached prior to the session). Accordingly, the first Deputy Prosecutor could be elected at a special session of the Assembly to be held in 2003. Presumably the Prosecutor will, when in office, determine when a second Deputy Prosecutor should be elected. For purposes of the present draft budget, it is assumed that, in the first financial period of the Court, the Prosecutor would need only one Deputy Prosecutor to assist him/her on matters such as recruitment, investigation and prosecution policies, structuring of the Office, etc.

45. The Prosecutor and the Deputy Prosecutor shall serve on a full-time basis (art. 42, para. 2). They will take up their respective duties after having made a solemn undertaking in accordance with article 45 of the Statute. It would be up to the Assembly of States Parties to decide on the terms of office of both the Prosecutor and the Deputy Prosecutor in accordance with article 42, paragraph 4, of the Statute. For the conditions of service and compensation of the Prosecutor, annex IV may be consulted. Consideration may be given in this respect to the desirability of grading their terms of office in such a manner that the experience and the institutional memory of the Office of the Prosecutor will be preserved and the continuity of its work ensured.

46. As to the staffing needs of the Office, the Prosecutor will have the authority to appoint such qualified staff as may be required, including the appointment of investigators (Statute, art. 44, para. 1). They will be part of the staff of the Court and subject to staff regulations to be proposed by the Registrar, with the agreement of

[16] The budgetary consequences of this flexible approach can be reflected by the requisite vacancy percentage in the budget document, indicating that it is not expected that all budgeted posts will become an actual expenditure until the last few months of the first period of operations.

the Presidency and the Prosecutor, and approved by the Assembly (ibid., para. 3). The Prosecutor would also appoint advisers with legal expertise on specific issues, including, but not limited to, sexual and gender violence and violence against children (art. 42, para. 9). **The advisers on issues relating to sexual and gender violence and violence against children would form part of the staff of the Office of the Prosecutor.**

47. The possible requirement of an upsurge capacity (for example, in the case of a referral of a situation or if an evidence preservation situation arises under article 18, paragraph 6, or article 19, paragraph 8) can be met through the equivalent of general temporary assistance funds during the first budgetary period. Such upsurge capacity would be essential for the Prosecution Section, the Investigation Section, the Information and Evidence Section, and to the translation and interpretation function of the Office of the Prosecutor. Efficient procedures for the utilization of general temporary assistance funds would contribute to avoiding under- or over-utilization of such temporary staff in the event that upsurge capacity is required.

48. The Prosecutor shall have full authority over the management and administration of the Office, including the staff, the facilities and other resources thereof (art. 42, para. 2). The establishment of a Common Services Division (see sect. XII below) would be in full accord with this requirement.

49. In exceptional circumstances, the Prosecutor may employ gratis personnel offered by States Parties, intergovernmental organizations or non-governmental organizations (art. 44, para. 4). Gratis personnel shall be employed in accordance with guidelines to be established by the Assembly (ibid.).

Staffing requirements

50. While it is difficult to predict whether there will be any referral of a situation to the Court during the first budgetary period, it is to be expected that the Office of the Prosecutor will receive many communications from the time of the establishment of the Court pursuant to the Prosecutor's *proprio motu* power of preliminary examination under article 15. The requirements of this mode of operation should not be underestimated. The Office of the Prosecutor must exercise due diligence within the parameters of article 15 and avoid being seen as inoperative in the face of complaints. It is important that the Office of the Prosecutor sets the highest standards in its dealings with sources of information relevant to article 15, paragraph 2, as well as with the Pre-Trial Chamber. **The Prosecutor will have to take action according to articles 53 to 58 of the Statute as well as Part 9 thereof, and** it cannot be excluded that the Office of the Prosecutor, through article 15, paragraph 3, may find itself in an article 18, paragraph 6, or article 19, paragraph 8, situation during the first budgetary period, requiring investigative steps to preserve evidence. The Prosecutor shall be responsible for the retention, storage and security of information and physical evidence in the course of the investigations (finalized draft Rules of Procedure and Evidence, rule 10). Information which the Prosecutor may receive during the first budgetary period pursuant to article 15, paragraph 2, article 18, paragraph 6, and article 19, paragraph 8, is potential evidence and must be handled appropriately so as to avoid contamination. In general, the credibility of the Court will be built on the quality of its work from the outset of its existence.

51. **Immediate Office of the Prosecutor**. This Office would include the Prosecutor, at the Under-Secretary-General level,[17] one Deputy Prosecutor, at the Assistant Secretary-General level, one Special Assistant to the Prosecutor at the P-5 level, one Special Assistant to the Deputy Prosecutor at the P-4 level, and one Spokesperson for the Office of the Prosecutor (P-4). The Office would be supported by a pool of three General Service staff with one Administrative Assistant at the Principal level assigned to the Prosecutor.

52. In order to help the Prosecutor recruit the relevant staff and exercise the statutory authority to manage and administer his or her Office, an **Administrative Unit** directly attached to the Immediate Office of the Prosecutor would be needed. The Unit would include one Budget Officer (P-4), one Personnel Officer (P-3), one Programmer/Analyst (P-3), one Language Coordinator (P-3),[18] and two Administrative Assistants (General Service (Other level)).

53. Accordingly, the overall staffing requirement of the Immediate Office of the Prosecutor would consist of the Prosecutor, one Deputy Prosecutor, at the Assistant Secretary-General level, one P-5, three P-4, three P-3,one General Service (Principal level) and four General Service (Other level) staff.

54. The functional needs of the Office of the Prosecutor suggest that it would need a Prosecution Division, an Investigation Division and a separate Appeals Section from the first budgetary period onward.

Prosecution Division

55. The **Prosecution Division** would be responsible for functions such as litigation; legal review of information and potential evidence; drafting of charges; directing investigators; advising senior management on investigation and prosecution strategies; drafting general guidelines and policies for the Office of the Prosecutor; drafting legal submissions; providing expert legal advice; and conducting legal research and training. To do this most effectively, the budget for the first period should provide for a Prosecution Section, a Legal Advisory and Policy Section **and an Appeals Section** within the Prosecution Division. The Prosecution Division should be headed by a Director of Prosecutions at the D-2 level, supported by an Administrative Assistant (General Service (Other level)).

56. The **Prosecution Section** within the Prosecution Division would review information and evidence; direct investigators; litigate; and draft charges and legal

[17] This level of the Prosecutor is shown for illustration purposes and without prejudice to the future discussion thereon.

[18] Document translation has proved to be one of the most persistent and serious problems in the experience of the ad hoc Tribunals. The ICC Office of the Prosecutor must have its own document translation capacity. The open nature of the Court's territorial jurisdiction necessarily means that this function will have to draw on general temporary assistance staff at the working level. However, there needs to be a permanent language coordination capacity within the Office of the Prosecutor through which needs are assessed, requests channelled, and advice is formulated for the Prosecutor on relevant internal language policies. It is not feasible to predict beforehand what the exact upsurge need for translators and interpreters would be in the event of a referral of a situation or if an evidence preservation situation were to arise under article 18, paragraph 6, or article 19, paragraph 8, during the first financial period. It is essential that the procedures for utilization of general temporary assistance funds for upsurge staff be efficient and sufficiently flexible to allow for the establishment of a translation and interpretation unit in the Office of the Prosecutor within reasonable time.

submissions on questions of procedure and evidence. The Section would also advise senior management of the Office of the Prosecutor on investigation and prosecution strategies, alongside other sections, and contribute to the drafting of general guidelines and policies of the Office of the Prosecutor. The Section would require five prosecutors, one at the P-5 level (Chief of Section), two at the P-4 level and two at the P-3 level. This team would be supported by a pool of two Secretaries (General Service (Other level)). The Section would probably require additional general temporary assistance staff if a situation were to be referred to the Court during the first budgetary period.[19]

57. The **Legal Advisory and Policy Section** would be required to provide independent specialist legal advice and legal drafting, in particular on questions pertaining to jurisdiction, including the scope of the subject-matter jurisdiction. The Section would also have to assist with the drafting of guidelines and policies relevant to the operation of the Office of the Prosecutor,[20] as well as with the training of members of the Office of the Prosecutor, general temporary assistance staff and gratis personnel.[21] Staff of the Section would include one Senior Legal Adviser (P-5), two Legal Advisers (P-4) and **three** Legal Advisers (P-3), **including Legal Advisers with specific expertise on issues of sexual and gender violence and violence against children**. Administrative support to the Legal Advisory and Policy Section could be provided by one Secretary (General Service (Other level)).

58. The **Appeals Section**, which should be within the Prosecution Division, **and** would work with the Prosecution Section and Legal Advisory and Policy Section in handling interlocutory appeals (and later appeals proper) before the Appeals Chamber of the Court. The Appeals Section should have one P-5 level post of Senior Appeals Counsel and one Appeals Counsel at the P-4 level. The Section would be supported by one General Service (Other level) staff member.

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[19] It would be preferable to pool the prosecutors in one section within the Prosecution Division during the first budgetary period, so as to better enable the Director of Prosecutions to respond in a flexible manner to the needs for prosecutors whether in connection with preliminary examination, investigation or litigation. The time-consuming nature of the investigation of international crimes means that the prosecution's litigation function during the first budgetary period would, even in the event that there is a referral of a situation, be limited to certain pre-trial questions, in particular admissibility proceedings, where the Prosecution Section should work closely with the Legal Advisory and Policy Section and the Appeals Section. If there is no referral of a situation, the litigation function would be more limited, with an emphasis on article 15, paragraph 3, and subsequent admissibility proceedings, in both of which the Prosecution Section should be assisted by the Legal Advisory and Policy Section and the Appeals Section.

[20] Some of the subjects that will require guidelines are: criteria for full investigation; requesting assistance; interviewing witnesses; interviewing suspects and accused; use of policy and expert witnesses; written statements; search and seizure; field missions; format-of-the-charges document; formal internal review of charges; disclosure; contact with the media; file management; network access; and appeal procedure.

[21] The experience of the ad hoc Tribunals underlines the importance of these functions and that there must be appropriate expertise to execute them from the outset of the work of the Office of the Prosecutor, when precedents on jurisdiction will be set and internal standards will be established for the Prosecutor's action under, inter alia, articles 15, paragraphs 1-3, 17 to 19, 53 and 54. The Legal Advisory and Policy Section should also be responsible for the establishment and maintenance of an electronic legal decisions and submissions database from the start, as well as other electronic services relevant to the elements of applicable offences and key procedural and evidentiary rules.

59. Accordingly, the overall staffing resource requirement of the Prosecution Division and the Appeals Section would consist of one D-2, three P-5, five P-4, five P-3 and five General Service (Other level) posts.

Investigation Division

60. The **Investigation Division** would be responsible for functions such as reception and management of information and potential evidence; preliminary examination; investigative steps to preserve evidence; investigation, including analysis of contextual and systemic facts; and advising senior management on investigation strategy based on, inter alia, assessments of overall victimization. To do this most effectively, the budget for the first period should provide for three sections: an Information and Evidence Section, an Investigation Section and an Analysis Section. The Investigation Division would be headed by a Chief of Investigation at the D-1 level assisted by one Administrative Assistant (General Service (Other level)).

61. The **Information and Evidence Section** would be required from the outset of the work of the Office of the Prosecutor.[22] As pointed out above, the Prosecutor shall be responsible for the retention, storage and security of information and physical evidence in the course of the investigations. Information which the Prosecutor may receive during the first budgetary period pursuant to articles 15, paragraph 2, 18, paragraph 6, and 19, paragraph 8, is potential evidence and must be appropriately handled to avoid contamination. The Section would require one Evidence Management Officer (P-4) and three General Service (Other level) staff. The Section would have to be reinforced with Professional and General Service (Other level) staff on the basis of general temporary assistance funds in the event a situation is referred to the Court or an evidence preservation situation arises under article 18, paragraph 6, or article 19, paragraph 8, during the first budgetary period.

62. Although it is uncertain whether a full investigation will commence during the first budgetary period of the Court, the Office of the Prosecutor needs a basic investigative capacity, an **Investigation Section**, to work alongside other sections in executing preliminary examination under article 15, paragraph 2, and to coordinate and undertake investigative steps to preserve evidence under article 18, paragraph 6, or article 19, paragraph 8, or if an investigation proper is launched. The Section should be headed by a Deputy Chief of Investigation at the P-5 level (Chief of Section) and should have four investigators, two at the P-4 level and two at the P-3 level. The Section would be supported by two General Service (Other level) staff. If a full investigation is launched or an evidence preservation situation arises pursuant to article 18, paragraph 6, or article 19, paragraph 8, during the first budgetary period, the Section would have to be reinforced with general temporary assistance staff at the Professional and General Service levels.[23]

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[22] Article 15 communications or complaints will most likely be submitted to the Court early in the first budgetary period. It is important for the Office of the Prosecutor to have the capacity to appropriately receive and manage materials submitted together with such complaints.

[23] In such a situation the Prosecutor may wish to establish a rapid reaction capacity within the Investigation Section, led by regular section members but supplemented by general temporary assistance staff. The Office would also have to turn to general temporary assistance staff in case there was a need for forensic expertise during the first budgetary period. It is very difficult to estimate the number of general temporary assistance staff that the Investigation Section would require if there was a need for upsurge capacity during the first budgetary period.

63. The **Analysis Section** would have to be provided for in the first budgetary period to serve functions such as collecting and analysing potential evidence on systemic facts required by contextual elements of crimes;[24] analysing military, police and civilian power structures in territorial States; developing evidence relevant to superior responsibility; advising senior management on investigation strategy by assessing overall victimization in territorial States;[25] identifying and assisting experts; analysing document collections; **developing tools of criminal intelligence-analysis such as time lines and visual aids relevant to factual patterns,**[26] providing a mapping and reference service and sensitive sources coordination; and assisting the Legal Advisory and Policy Section with the training of staff members on background information relevant to territorial States. The Section should be led by a Chief Analyst (P-4) and have one Military Analyst (P-3), one Political Analyst (P-3) and one Criminal Intelligence Analyst (P-2), supported by one General Service (Other level) staff member. If a full investigation starts or an evidence preservation situation were to arise under article 18, paragraph 6, or article 19, paragraph 8, during the first budgetary period, it would be necessary to hire two or three additional analysts (P-2/P-1) with expertise relevant to the territorial State(s) on a general temporary assistance basis.

64. Accordingly, the overall staffing resource requirement of the Investigations Division would consist of one D-1, one P-5, four P-4, four P-3, one P-2 and seven General Service (Other level) staff.

65. Resources should be foreseen for travel of staff of the Office of the Prosecutor, including with regard to functions pursuant to article 15 of the Statute, as well as for special printers, scanners, photocopiers, monitors and software requirements. For reasons of confidentiality and security it is necessary for the Office of the Prosecutor from the beginning of its operation to have a computer network that is entirely separate from the rest of the Court and unconnected with the outside world.

66. The organizational chart of the Office of the Prosecutor is set out in annex I.B. Proposed post requirements are outlined in table 7.

XI. The Registry

67. The structure and staffing requirements of the Registry would depend on the level and scope of activities of the Court.

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[24] For example, the existence of an armed conflict or a widespread or systematic attack directed against a civilian population. These requirements refer to systemic facts which differ fundamentally from the crime-specific facts with which criminal investigators normally work in national jurisdictions.

[25] The experience of ICTY shows that it is essential to have an appropriate analytical capacity within the Office of the Prosecutor from the outset of its work. By providing an early overview of the overall victimization in a situation referred to the Court, the Analysis Section would play a vital role in developing a proper investigation strategy of the Office of the Prosecutor, which can have significant long-term resource implications (a proper investigation strategy will contribute to a more focused and economical prosecution).

[26] **Other such aids would include spreadsheets showing chains or patterns of events, and multi-layered maps showing both background and crime-specific facts.**

68. The Registry shall be responsible for the non-judicial aspects of the administration and servicing of the Court, without prejudice to the powers and functions of the Prosecutor (Statute, art. 43, para. 1). It shall be headed by the Registrar, who shall be the principal administrative officer of the Court (ibid., para. 2). Under article 38, paragraph 3 (a), of the Statute, "[t]he President, together with the First and Second Vice-Presidents", constituting the Presidency, is entrusted with "the proper administration of the Court, *with the exception of the Office of the Prosecutor*" (emphasis added). Moreover, pursuant to article 43, paragraph 2, "the Registrar shall exercise his or her functions under the authority of *the President*" (emphasis added) and, in accordance with paragraph 1 of the same article, is "responsible for the non-judicial aspects of the administration and servicing of the Court". Article 42 grants the Prosecutor "full authority over the management and administration of the Office, including the staff, facilities and other resources thereof". Therefore, a distinguishing aspect of the International Criminal Court is that the Registrar is placed more directly under the judiciary, and the Prosecutor is granted explicit powers regarding the administration of the Office of the Prosecutor.

69. In order to maintain this division between the administrative functions to support the judiciary and the administrative functions which support the Office of the Prosecutor, while at the same time maximizing economy and efficiency, it is advisable in the budget for the first financial period of operation of the Court to provide for the establishment of a Common Services Division. This common administrative branch, although not organizationally part of the Registry, would report to the Registrar. It is anticipated that the judiciary and the Office of the Prosecutor would pool those administrative services that are a common requirement of both.[27] The requirements of the Registry in the first financial period take into account this approach.

70. The Registrar shall be elected by the judges. A Deputy Registrar can be elected "if the need arises, and upon the recommendation of the Registrar" (Statute, art. 43, para. 4). It is assumed that the Registrar would be elected by the judges as soon as possible following the **Special session of the Assembly of States Parties**. It is further assumed in the present budget that it would not be absolutely essential to have a Deputy Registrar in the first financial period.

Staff requirements for the Registry

Office of the Registrar

71. The **Immediate Office of the Registrar** would be responsible for the daily management of the judicial pillar of the Court, under the overall authority of the Presidency in conformity with articles 38 and 43 of the Statute. The Immediate Office would also be responsible for liaison and coordination with the Common Services Division on behalf of the judiciary. It would also focus on rendering advice on international law aspects, including the interpretation and application of legal instruments regarding the status, privileges and immunities of the ICC, international agreements with the host country and as well as with other States, relocation-of-witnesses agreements and donation agreements. **This Office would also deal with**

[27] See sect. XII below.

judicial aspects of detention matters. The Immediate Office would consist of the Registrar at the Assistant Secretary-General level, a Legal Officer (P-4) to act as legal adviser, a Special Assistant/**Legal Officer** (P-3), **with a legal background, who would, inter alia, review documents on issues referred to above** one General Service (Principal level) and one General Service (Other level) staff.

72. Moreover, in order to assist the Registrar in the administrative matters that he/she must perform for the Presidency and the Chambers, provision should be made for a separate management function in the form of an **Administrative Unit** attached to the Immediate Office of the Registrar, which would include a Budget Officer (P-4) and a Personnel Officer (P-3) to liaise with the relevant offices of the Common Services Division, supported by a General Service (Other level) staff. In addition, due to the overwhelming high level of resources that the translation and interpretation services would require, in particular bearing in mind that the Court would be using a diversity of official languages, the Court would have to be staffed with an adequate number of translators/interpreters, sufficient to meet the requirements of the judiciary. It is, therefore, also recommended that a P-4 Language Coordinator be placed within this Unit to coordinate on a daily basis the language requirements of the judiciary.[28]

73. While it may not be necessary for all judges to serve immediately on a full-time basis as soon as they are elected, it is advisable, as at ICTY, that a **Chambers Legal Support Section** be set up to support the judges who are involved in pre-trial and trial work, and to commence preparatory work as soon as possible. The activities of the Section would include providing substantive legal advice on issues of criminal procedure, interpretation of the Statute or issues of international law; research and editorial support for the drafting of orders, decisions and judgements; case management support for the Registrar and for the organization of the judicial activities of the Chambers; organization of judicial meetings, such as pre-trial conferences, in collaboration with various sections falling under the responsibility of the Registrar; and generally to act as liaison between the judges, the parties and other organs of the ICC.

74. It would be of importance to create from the beginning separate sections for pre-trial, trial and appeals proceedings. In the first financial period, judicial proceedings may primarily take place in the pre-trial phase and on (interlocutory) appeal. Given the importance of such issues for the future functioning of the Court, adequate staffing is needed from the very beginning of its operation.

75. It is envisaged for one Head of the Chambers Legal Support Section to be appointed at the P-5 level, to serve both the pre-trial, trial, and appeals structures that would be set up. It is proposed that the legal research/assistance function be filled at the P-3 level in the first budgetary period. Two such positions would be necessary. In addition to those posts, administrative support staff would be needed for those judges serving on a full-time basis and the Professional staff. It is

[28] See also footnote 16 (Office of the Prosecutor), in which the requirement for a separate translation and interpretation function within the Office of the Prosecutor is set out. Within the judicial pillar, it will be necessary to have a similar translation and interpretation function, which can grow from the post set out here. In the judicial pillar, this function will be responsible for translating/revising and interpreting documents and statements which become part of the case file. The ICTY experience shows that it is essential to have those providing the translation and interpretation services close to the substantive offices which assign them work.

recommended that each staff member at the P-5 level and above have a General Service level assistant, and that other Professional staff be supported at the ratio of one General Service level assistant for two Professionals, all to be recruited only at the time the senior position is filled. It will further be necessary to provide for a Secretary (General Service (Other level)) for each judge serving on a full-time basis.[29] Thus a total of eight General Service (Other level) staff members would be required.

76. **Public Information and Documentation Section**. The Section would be headed by the Spokesperson for the Presidency (P-4). It is to be expected that there will be many public affairs functions needing to be fulfilled in the first financial period. A comprehensive web site should be set up and, in general, a strategy would have to be devised and implemented to put the Court on the world map. A related issue concerns targeted outreach functions which may have to be performed as the Court becomes involved in cases originating from various parts of the world. Such outreach programmes are not expected to be activated during the first financial period, but need to be included in the planning for this section. It is proposed that, initially, the information and documentation should be set up under the aegis of the Registrar. In later stages of the development of the Court, the Office of the Prosecutor may assume some of the public information functions in respect of that Office.

77. From the first day of operation it will be essential to have a computer specialist in the Section who can begin constructing a web site. It is proposed that such a specialist be recruited at the P-3 level. It is further proposed that the Section should also include one Information Officer (P-2), and one media assistant (General Service (Other level)).

78. **Library and Reference Section**. The building up of a good library will be pivotal in the first financial period, especially given the standard-setting work which the Court will be carrying out in its first years of operation. It is therefore proposed that the Section should be staffed with a Librarian (P-3) and, in the course of the first financial period, an Archivist (P-2) and an Administrative Assistant (General Service (Other level)).[30] It is assumed that the Court library will become part of the United Nations Library network for the purpose of accessing legal databases, etc.

Judicial Services Division

79. Under the direction of the Registrar,[31] for the first financial period, the Division would be responsible for managing courtroom operations, providing legal

[29] These functions should not be duplicated with the secretarial staff recruited to support the Presidency, i.e. two GS (OL) positions and one GS (PL) position. See paras. 40 and 41 above.

[30] Drawing on the ICTY experience, it will take quite some time before all library requirements have been identified and acquired. In that light, the offer of the ICTY Registrar to place the ICTY library at the disposal of ICC officials in the start-up phase is significant. This can, however, only be a temporary solution, given the close proximity which much of the material must have to its users.

[31] The Judicial Services Division could be headed at the D-2 level. It is assumed that during the first financial period there would not be enough activities to justify the establishment of the post. However, should the position become necessary, the appropriation line adopted by the States Parties under regulations 4.2 and 4.3 of the draft Financial Regulations may be utilized, or supplementary budget proposals under draft Regulation 3.6 may be submitted by the Registrar.

aid through the assignment of defence counsel, recommending protective measures and providing counselling and support to victims and witnesses. In the first year of operation, it might consist of the following sections and units.

80. The **Court Management Section** would be responsible for managing the operations and proceedings of the Court, developing directives and regulations to govern the operation of the Court proceedings and related judicial matters (see art. 52 of the Statute). It would also be responsible for conducting research and drafting legal submissions to the Chambers regarding legal issues which may have an impact upon the procedure of the Court sessions insofar as they concern the Registry; providing supervision over the procedural and Court-related aspects of all cases before the Court; advising on different practices on the implementation of the Rules of Procedure and Evidence; as well as coordinating with the Security Section, the Conference Services and Language Section and other sections on the functioning of the courtrooms. It is proposed that the Chief of this Section should be recruited at the P-4 level. It is further proposed, in the light of the standard-setting work that will need to be done, that the Chief of Section should be assisted by a lawyer, who in the first financial period of operation could also act as a Court Officer. This post could be filled at the P-2 level. Also necessary will be the functions of File Clerk and Court Records Management Assistant, which in the first financial period of operation could be combined. This post could be filled by a General Service (Other level) staff. A further function required in the first financial period of operation is that of Court Clerk/Usher (General Service (Other level)).

81. It would be necessary to include in the first budget a certain degree of flexibility so as to meet any urgent and unexpected requirements, in areas such as field operations, travel, overtime, court reporting and the making of transcripts.

82. **Victims and Witnesses Unit**[32]. The Statute and finalized draft Rules of Procedure and Evidence of the Court assign a significant role to the Victims and Witnesses Unit. The "clients" of the Unit will include, in addition to witnesses and victims who appear before the Court, other individuals at risk on account of a testimony. In addition to the traditional duties of protection, support and logistical/administrative/operational assistance, the Unit would be required, among other matters, to provide training to the Court, recommend codes of conduct for investigators, defence, NGOs, etc., and advise witnesses in obtaining legal representation.

83. It is assumed that the Victims and Witnesses Unit during the first financial period of operation would need to prepare itself for worldwide operations and deployment at short notice as much as possible before the first witnesses arrive. In this connection, also included in the present budget proposal are funds to allow for upsurge capacity with regard to operations based on the equivalent of general temporary assistance funds used in the United Nations system. Based on these assumptions, it is anticipated that the following posts will need to be provided for in the first period of operation of the Court.

84. It is proposed that the Chief of the Unit should be recruited at the P-5 level, in the light of the particular requirements of the position and the type of expertise demanded. It is further essential that a Protection Officer at the P-3 level and an Operations Officer (P-3) be included with the initial set-up of the Unit. While the

[32] **Paragraphs 82 to 85 pending.**

Protection Officer would be involved in setting up the systems and procedures which will be necessary to have in place to enable the Registry to deal with the protection of witnesses, the Operations Officer will have to prepare all systems and mechanisms for the logistical aspects of bringing witnesses to The Hague from all over the world, having them stay there, and getting them back to where they came from. In the initial phases of setting up the Unit, a considerable amount of legal work will need to be done. For this purpose, it is proposed that the legal adviser from the Immediate Office of the Registrar be utilized. In addition, an Administrative Assistant (General Service (Other level)) would be necessary for the Unit. Unless the actual arrival of witnesses is expected in the first financial period, a Support Officer may not be immediately necessary, as the initial work could also be done by the Chief of Section. However, a Support Officer may have to be recruited at short notice, through the use of the provision for temporary assistance.

85. As regards non-staffing costs required for the first financial period, the following general remarks can be made. The Victims and Witnesses Unit would need to procure the appropriate services and equipment in the area of communications and information technology. In the event of the early participation of victims/witnesses in court proceedings, significant funds equivalent to general temporary assistance funds used in the United Nations system would need to be available for contracting primary support services when required.

86. **Defence Counsel Unit**[33]. In the first financial period, and, most likely thereafter as well, legal aid and legal detention matters should be handled by the same office. The Unit would cover two core functions: legal aid and general assistance to defence counsel. The defence (team) and the defendant are in practice one "customer" for the services to be provided, one party for decisions to be addressed to, and one information structure to be aware of when managing the functions.[34]

87. For the first financial period, the functions outlined above could be translated into the following positions. Firstly, there would be a need for a Chief of Unit, who would have to initiate, supervise and manage the drafting of rules and policies and liaise with external parties. Such a manager would have to be recruited at the P-4 level in view of the relevance of the matters for fair trial and the financial management and responsibility connected with the post. Secondly, an Associate Legal Officer at the P-2 level would be required to do much of the groundwork regarding the necessary legal research and drafting. It is envisaged that a Secretary (General Service (Other level)) would be necessary to assist the Unit in facilitating communications, distributing material, establishing databases, etc. Although it is assumed that a situation will not be referred to the Court in the first financial period, such a possibility cannot be completely discarded. Thus, a provision in the amount of €580,000 is included in the reserve for unforeseen expenses to cover legal aid costs if and when necessary. In addition, general temporary assistance funds should be available for the possible requirement of specific investigations, field operations, travel and consultants for specific legal or other matters.

[33] Title pending.

[34] The legal aid function advises detainees on the relevant rules for assignment of counsel (Statute, arts. 55, 67). Most detainees address complaints through their lawyers to the Registry and take an active role in the selection of their co-counsel. In maintaining the physical and mental integrity of detainees, counsel is an important partner for the organization.

88. **Detention Unit.** In the first financial period of operation of the Court, the Detention Unit would be involved in setting up an appropriate detention facility,[35] establishing adequate procedures[36] and setting up training systems for the relevant staff.[37]

89. These functions could be translated into the following positions: a Commander of the Unit (P-4), a Deputy Commander (P-2) and one Administrative Assistant (General Service (Other level)). Flexible means of recruiting detention guards, in case of need, could be considered.[38]

90. The overall staffing resource requirements of the Registry would consist of one staff at the Assistant Secretary-General level; two P-5; seven P-4; eight P-3; five P-2; and one General Service (Principal level) and 17 General Service (Other level) staff. The organizational structure of the Registry is set out in annex I.C and the proposed post requirements are outlined in table 9.

XII. Common Services Division

91. Particularly for the purposes of the first financial period, the establishment of the Common Services Division is intended to maximize efficiency and economy within the parameters of the strict division of powers set out in the Statute between the judiciary (Presidency, Chambers and Registry) and the Office of the Prosecutor. In this model, the judicial branch of the Court would administratively be overseen by the Presidency until the election of the Registrar, while the Office of the Prosecutor would have its own administrative powers. The Common Services Division is envisaged to provide to the judiciary, the Office of the Prosecutor and the Registry administrative services that are a common requirement for all three. The Division would report to the Registrar, and pending his or her election, to the Presidency. The Registrar and the Prosecutor would cooperate taking into account articles 42 and 43 of the Statute. Examples of such services would be: general services, building management, finance, many aspects of security, procurement, certain aspects of human resources (including training), information technology and communication matters, and some aspects of conference and language services. It is anticipated that during the first financial period of operation of the Court the division will be heavily tasked with many of the operational start-up matters connected with setting up a new international organization. It is envisaged that the Common Services Division would be granted a sub-budget by both the

[35] The establishment of such a facility is crucial for later operations, guaranteeing appropriate detention standards for detainees. The facility would need to include proper cell spaces, recreation space, medical facilities, visiting facilities for small or large groups, cell and visit monitoring equipment, search facilities, interview rooms, etc.

[36] Standard procedures for detention must be in place before accused persons are detained. These may include post orders, medical emergency procedures, standard operations procedures, etc.

[37] It is required that core staff be trained and prepared to deal with the specific needs of detention matters in an international environment in order to be able to train new staff upon detention of individuals at the ICC detention facility.

[38] In this connection, the ICTY experience with a flexible and cost-efficient arrangement with the competent authorities of the Netherlands, whereby cells are rented in conjunction with certain services (prison guards, medical facilities, services for detainees, etc.) on a price-per-cell basis. The cells and the services are leased by the ICTY based on a minimum amount of units, each consisting of 12 cells.

Registrar (on behalf of the Presidency) and the Prosecutor (for the Office of the Prosecutor) to provide the administrative support which each of them requires and would have budgeted for.

92. For the purposes of the first financial period, it is anticipated that the division would be headed by a Director (D-1), who would oversee the work of general administrators and staff with experience in setting up courts. As the establishment of the Court progresses, certain functions, mainly those that are specifically court-related, would be transferred from the Common Services Division to the Office of the Prosecutor or Registry, as appropriate.[39]

93. The Common Services Division would be composed of the following offices and sections.

94. **Office of the Director of Common Services**. The Director of Common Services would direct eight sections. He/she would be supported by one Administrative Assistant (General Service (Other level)).

95. **General Services Section**. The Section would be responsible for travel and traffic arrangements as well as building management and transport activities. It would be headed by a Chief of Section (P-4). The Section would consist of a Building Management Unit, a Central Records Unit, a Protocol Unit, a Logistics Unit and a Travel Unit. Accordingly, these units would require one Building Management Officer (P-3), one Archivist (P-3), one Protocol Officer (P-3), one Logistics Officer (P-3) and one Travel Officer (P-2). One Senior Graphics Design Assistant (General Service (Principal level)) and 10 Service Assistants (General Service (Other level)) would assist in these units. As shown in the organizational structures of the Presidency and the Common Services Division (annex I.A and D), this section would also include one clerk/driver for the President. This structure assumes that there would be no field operations and that most of the focus would be on basic start-up activities.

96. **Procurement Section**. The Section should be independent of the other sections of the division to avoid any appearance of conflict of interest. It would be headed by a Chief (P-4), and would include one Procurement Officer (P-3) and two Procurement Assistants (General Service (Other level)). As it is anticipated that there would be a large procurement workload in connection with the **initial** phase. **It is expected that much of this work will be outsourced.** The minimum staffing **may** have to be increased to meet extra operational requirements such as activities in the field.

97. **Personnel Services Section**. Besides dealing with a surge of recruitment, the Section would have to deal with the setting up of all personnel administration systems and processes, **including the commissioning of the preparation of job descriptions**. The proposed staffing structure would include one Chief of Section (P-5), one Classification Officer (P-4), one Recruitment Officer (P-3), three Human

[39] In this connection, attention is drawn to the translation and interpretation function, which for reasons of economy could, in the first financial period or part thereof, be coordinated within the Common Services Division but which will have to divided into two separate functions quite soon: one for the judicial and one for the prosecutorial pillar (see paras. 52 and 72). It is to be expected that, within the split, certain aspects of the function could be pooled in the Common Services Division. However, the details of the manner and the extent to which that should be done will be best determined by the senior management of the Court at the time.

Resources Assistants (General Service (Principal level)) and one Administrative Assistant (General Service (Other level)).

98. **Budget and Finance Section**. The Section would be responsible for setting up all financial systems and controls, **including arrangements for periodic budgetary monitoring. The Budget and Finance Section would also consolidate, in accordance with Rule 103.2 of the draft Financial Regulations and Rules, programme budgets for financial periods at such times and in such detail as the Registrar may prescribe. Such programme budgets shall be prepared on a results-based budgeting basis, in accordance with Regulation 3.3 of the draft Financial Regulations and Rules.** In addition, it is assumed that the Section would have to administer and process financial assessments of States Parties. The proposed staffing structure would include one Chief Finance Officer (P-5), one Accounts Officer (P-4), one Budget Officer (P-4), one Disbursements Officer (P-3), one Investment Officer (P-3), one Payroll Officer (P-4), one Cashier (P-3), and one Contributions Officer (P-2). In addition, it would be necessary to include five Finance Assistants (General Service (Other level)) and one Administrative Assistant (General Service (Other level)).

98bis Office of Internal Audit. Pursuant to Rule 110.1 of the draft Financial Rules of the Court (PCNICC/2002/WGFI/RT.1/Rev.1), provision should be made for an Office of Internal Audit. This Office would conduct independent audits of the financial transactions and the administrative systems underlying such transactions and provide related comments and recommendations to the Registrar and, in areas falling under the authority of the Prosecutor, by virtue of article 42, paragraph 2, of the Rome Statute, also to the prosecutor. The office would perform its tasks independently and report to the Registrar. Its administrative allocation would be in the Common Services Division.

98ter Accordingly, a provision of €149,800 would have to be made for the Office of Internal Audit, composed of one auditor at the P-5 level, to reflect the level of responsibilities and experience that this function requires, and one staff member at the GS (Other) level, to provide administrative and secretarial support.

99. **Conference and Language Support Services Section**. In the first financial period of operation, the Section would be mostly responsible for the administrative aspects of translation and simultaneous interpretation services. The proposed structure could be headed by a Chief of Section (P-5) and comprise three Interpreters (P-4), one Head of the Translation Unit (P-4), who will supervise five Translators/Revisers (P-3). It would further be necessary to include two Language Assistants (General Service (Other level)) and one Administrative Assistant (General Service (Other level)). This staffing structure would create the capacity to deal with the official languages of the Court given limited trial activity. Flexibility to recruit on the basis of the equivalent of general temporary assistance funds used in the United Nations will be necessary if other languages and tasks are added to the work of the Section.

100. **Information Technology and Communications Services Section**. The responsibilities of this Section would include computer and communications services. The Section would have to engage in IT development and in setting up structures to support headquarters and field operations. Accordingly, the proposed structure would consist of one Chief of Section (P-5), one Development Officer

(P-4), one Computer Systems Officer (P-3), one Programmer/Analyst (P-3), one Associate Computer Officer (P-2), one Associate Audio-visual Officer (P-2), one Associate Computer Training Officer (P-2) and one Associate Database Administrator (P-2), to be supported by seven IT Assistants (General Service (Other level)) and one Administrative Assistant (General Service (Other level)).

101. **Safety and Security Section**. The Section would be responsible for ensuring the security of the Court premises and for coordinating and implementing an information security policy, in concert with both the judicial branch and the Office of the Prosecutor. In the first financial period, the Section would have to set up security systems to cover operations (evacuation systems and protocols, staff security awareness policies and training, and information security policies). In addition, and probably later in the first financial period, the functions of the section may include the requirement to ensure the safety of witnesses in the premises both before and after testifying.

102. The staffing requirements for the first year would include a Chief of Security (P-4), an Information Security Officer (P-3), an Associate Security Assessment Analyst (P-2) and one Administrative Assistant (General Service (Other level)). Moreover, it would be necessary to include 20 Security Officers to provide 24-hour/7 days-a-week guard shifts in addition to the more general security services provided by the host State, as has been the custom at ICTY.

103. **Legal Advisory Services Section**. In the first financial period of operation, the Section would provide legal advice to the Director of the Common Services Division on the legal aspects of administrative matters and complex commercial contracts. It would be involved in the review of all human resources structures and policies, all procurement structures and policies, and all other policies that would be put in place. The staffing requirements for the first standard-setting period would include one Legal Officer at the P-4 level and one Legal Officer at the P-3 level, to be supported by a Secretary (General Service (Other level)).

104. It would seem advisable to envisage for the Division of Common Services a category entitled "Other staff costs". Requirements under this heading would provide for: (a) general temporary assistance resources for replacements in the division during periods of extended sick or maternity leave; and (b) resources to meet overtime and night differential requirements that might arise. Similar provisions would be needed for the Office of the Prosecutor and for the Registry.

105. The overall staffing requirements of the Common Services Division would thus consist of 1 D-1, 5 P-5, 12 P-4, 17 P-3, 7 P-2, 2 General Service (Principal level), 37 General Service (Other level) and 20 Security Service staff. The organizational structure of the Common Services Division is set out in annex I.D and the proposed post requirements are outlined in table 11.

XIII. Furniture and equipment

106. During the critical **initial** phase, it will be necessary to provide for equipment and furniture to enable all the organs of the Court as well as other bodies and services to function efficiently and effectively in the administration of justice. For example, there will be a need for equipment for electronic scanning and digitizing documents to allow for efficient storage and retrieval of documents and information,

including the preservation of evidence. Furniture and equipment will also be required for officials and staff members. [open, pending language from the host country]